



Warner Norcross + Judd LLP

June 28, 2021

Filed via www.nlrb.com

Daniel Molenda
National Labor Relations Board
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, Michigan 48226

Re: United Wholesale Mortgage, Case 07-CA-277639

Dear Mr. Molenda:

On or about May 24, 2021, (b) (6), (b) (7)(C) filed an Unfair Labor Practice Charge with Region 7 of the National Labor Relations Board alleging that United Wholesale Mortgage, LLC ("UWM") violated Section 8(a)(1) of the National Labor Relations Act (the "Act") by discharging (b) (6), (b) (7)(C) for engaging in protected concerted activity.

UWM denies the allegation that it violated Section 8(a)(1) of the Act. (b) (6), (b) (7)(C) was consistently performing below average and continuously exhibited inappropriate and unprofessional behavior, affecting the morale of (b) (6), (b) (7)(C) team members. Moreover, to the best of UWM's knowledge, (b) (6), (b) (7)(C) engaged in no protected concerted activity while a UWM employee.

Allegations: The allegations for which I am seeking your evidence are as follows:

On or around (b) (6), (b) (7)(C), the Employer, at its Pontiac Michigan facility, by its agent (b) (6), (b) (7)(C) discharged employee (b) (6), (b) (7)(C) (the "CP") in retaliation for (b) (6), (b) (7)(C) protected concerted activities and in order to discourage other employees from engaging in protected concerted activities.

Documents: Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

¹ Although (b) (6), (b) (7)(C) Charge alleges that (b) (6), (b) (7)(C) was discharged by (b) (6), (b) (7)(C), UWM believes (b) (6), (b) (7)(C) is referring to (b) (6), (b) (7)(C). There is no (b) (6), (b) (7)(C) employed by UWM. Accordingly, to the extent applicable, UWM will make reference to (b) (6), (b) (7)(C) throughout its responsive pleadings.

1. *Completed Commerce Questionnaire.*

Commerce Questionnaire has been filed electronically under Case No. 07-CA-277639.

2. *Hierarchal chart*

See Attached Exhibit D.2.

3. *Employee handbook, Standards of Conduct and/or work rules.*

See attached Exhibits D.3a-b.

4. *Documents constituting all evidence considered by the Employer when making its decision to terminate the CP.*

See attached Exhibits D.4a-p.

5. *Documents constituting all communications² since about January 2021, between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) that reference employee concerns about system issues.*

See attached Exhibit D.5.

6. *Documents constituting any internal communication from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) inviting (b) (6), (b) (7)(C) to attend a Team Huddle in or around February or March 2021.*

No responsive documents exist.

7. *Documents constituting any internal communications between members of management that reference what happened during the above referenced Team Huddle that (b) (6), (b) (7)(C) attended in or around February or March 2021.*

No responsive documents exist.

8. *Documents constituting any communications from (b) (6), (b) (7)(C) or any other member of management to employees regarding their conduct or statements during the above referenced Team Huddle with (b) (6), (b) (7)(C) in or around March 2021.*

See attached Exhibits D.8.

9. *Documents constituting the Coaching Opp issued to former employee (b) (6), (b) (7)(C) in or around (b) (6), (b) (7)(C) 2021.*

See attached Exhibit D.9.

10. *Documents constituting the email/Coaching Opp sent to the CP in or around (b) (6), (b) (7)(C) 2021.*

See attached Exhibits D.10a-b.

11. *Documents constituting all communications between (b) (6), (b) (7)(C) and the CP, since about January 2021, in which the CP raises complaints or concerns about terms and conditions of employment, including but not limited to issues with the system impacting employees being able to achieve their “commitment”.*

See attached Exhibits D.11a-b.

12. *Documents constituting all MS Teams messages exchanged by members of (b) (6), (b) (7)(C) team on or around (b) (6), (b) (7)(C) 2021.*

See attached Exhibits D.12a-i.

13. *Documents constituting all communications between members of management on or around (b) (6), (b) (7)(C) 2021, discussing the MS Teams chats between employees, comments made by the CP, or disciplining/discharging the CP.*

See attached Exhibits D.13a-b.

14. *Termination paperwork for the CP.*

See attached Exhibits D.14.

15. *Consistent treatment evidence.*

See attached Exhibits D.15.

Legal Positions:

- 1) *Please provide a position regarding whether Team Leaders are statutory supervisors under the Act.*

UWM takes the position that Team Leaders are statutory supervisors under the Act.

2) *Please provide a full defense to all allegations stated above.*

See Position Statement Attached as Exhibit L.2.

Questions:

1) *Does the Employer utilize electronic means for communicating with employees? Please elaborate.*

Yes, UWM utilizes various forms of electronic means for communicating with employees, including via email, via Microsoft Teams (both by video and messaging), and via teleconferencing.

2) *Does the Employer typically post notices to employees through either U-Zone or Ulti-pro?*

Generally, UWM posts notices to employees through U-Zone.

3) *Does the Employer utilize U-Zone or Ulti-Pro to communicate terms and conditions or employment to employees? Are the Employee handbook, Standards of Conduct or any other work rules posted on either U-Zone, Ulti-pro or some other electronic system? Does the Employer announce new policies or employee events through either U-Zone or Ulti-Pro?*

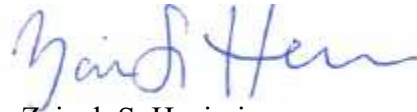
UWM utilizes both U-Zone and Ulti-Pro to communicate the terms and conditions of employment to its employees. As to U-Zone, UWM provides information including new policies, employee events, and the employee handbook. Ulti-Pro is utilized to communicate information relating to timekeeping, payroll, benefits, and other employee information.

4) *Does the Employer record Team Huddles? Through what platform are Team Huddles conducted when employees are working remotely? I am specifically interested in the March team huddle for (b) (6), (b) (7)(C) that was Attended by (b) (6), (b) (7)(C). Was this team huddle recorded? Was there a chat feature that employees could use to type messages? Was the chat from the team huddle preserved? If so, I would like a copy. If the Team Huddle was recorded, I would like you to submit a copy of the recording.*

No. Team Huddles are not typically recorded. Team Huddles during the pandemic have typically been held on either Microsoft Teams or Zoom. This particular Team Huddle held in March 2021 was held virtually via Zoom. This Team Huddle was not recorded. Both Zoom and Microsoft Teams have a chat

feature that allows participants to chat. No portion of the chat was preserved. No copy of any recording of this Team Huddle was made.

Very truly yours,



Zainab S. Hazimi

ZSH/zsh

EXHIBIT

L.2.

Filed via www.nlrb.com

Daniel Molenda
National Labor Relations Board
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 05-200
Detroit, Michigan 48226

Re: United Wholesale Mortgage, Case 07-CA-277639

Dear Mr. Molenda:

On or about May 24, 2021, (b) (6), (b) (7)(C) filed an Unfair Labor Practice Charge with Region 7 of the National Labor Relations Board alleging that United Wholesale Mortgage, LLC (“UWM”) violated Section 8(a)(1) of the National Labor Relations Act (the “Act”) by discharging (b) (6), (b) (7)(C) for engaging in protected concerted activity.

UWM denies the allegation that it violated Section 8(a)(1) of the Act. (b) (6), (b) (7)(C) was consistently performing below average and continuously exhibited a negative and disrespectful attitude, affecting the morale of (b) (6) team members and colleagues. Moreover, to the best of UWM’s knowledge, (b) (6), (b) (7)(C) engaged in no protected concerted activity while a UWM employee.

What follows is a statement of UWM’s position with regard to (b) (6), (b) (7)(C) unfounded allegations.

Background

UWM’s success is based on a simple but effective principle: attract great people, to a great workplace, and give them the tools they need to do great work. The fact that UWM is the #1 wholesale mortgage company in the nation six years running is a reflection of UWM’s commitment to that goal.

UWM is a winning team dedicated to making dreams come true for its team members, its mortgage broker partners, and the homeowners UWM serves. UWM wins by building partnerships, masterminding award-winning technology, and delivering a stellar client experience for independent mortgage brokers nationwide. UWM’s business has grown tremendously over the last several years, employing over 9,000 Team Members at its offices in Pontiac, Michigan. The primary reason for its continued growth is its nationally recognized workplace culture. Indeed, UWM has been selected by Fortune Magazine as one of the Best Workplaces in Financial Services. It was also a winner of the Detroit Free Press’s Top Workplaces, Crain’s Cool Places to Work, Forbes America’s Best In State Employers, and Metro Detroit’s 101 Best and Brightest Companies to Work For in the Nation and Best and Brightest in Wellness.

(b) (6), (b) (7)(C) allegations should be dismissed because they are without merit.

1. On or around (b) (6), (b) (7)(C) 2021, UWM at its Pontiac Michigan facility, by its agent (b) (6), (b) (7)(C) [sic], discharged (b) (6), (b) (7)(C) in retaliation for (b) (6), (b) (7)(C) protected concerted activities and in order to discourage other employees from engaging in protected concerted activities.

UWM denies that it discharged (b) (6), (b) (7)(C) in retaliation for any purported concerted activities. (b) (6), (b) (7)(C) was discharged for (b) (6), (b) (7)(C) consistent poor performance coupled with (b) (6), (b) (7)(C) worsening attitude that came to a head on (b) (6), (b) (7)(C) 2021 when (b) (6), (b) (7)(C) threatened to make a (b) (6), (b) (7)(C) “life a living hell.” (See Exhibit D.4p.) This, in UWM’s view, was the proverbial straw that broke the camel’s back.

On (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) applied for a position with UWM. UWM subsequently offered (b) (6), (b) (7)(C) a position as an (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) signed an Employment Agreement with UWM on (b) (6), (b) (7)(C).

As reflected in (b) (6), (b) (7)(C) poor performance evaluations, (b) (6), (b) (7)(C) short tenure at UWM was mediocre, at best. (See Exhibits D.4a-o.) Indeed, a review of these evaluations makes clear that (b) (6), (b) (7)(C) lagging work performance suffered both objectively (in terms of (b) (6), (b) (7)(C) production) and subjectively (in terms of (b) (6), (b) (7)(C) inappropriate and disrespectful comments) and worsened as time went on. And throughout the course of (b) (6), (b) (7)(C) employment, (b) (6), (b) (7)(C) was continuously informed that issues like teamwork, work ethic, drive, and professionalism were things (b) (6), (b) (7)(C) needed to improve.

Rather than conduct annual performance reviews of its Team Members, UWM conducts monthly “YourTime” meetings between Team Members and their direct Team Leaders. These YourTime meetings are intended to help support team members’ development and growth by creating “Topics” and “Goals” set by the team member. The team leader then guides the team member through their stated Goals by identifying strengths and opportunities and a path forward (*i.e.*, under sections entitled, “How We Do It” and “Focus Area.”). The YourTimes include a series of competencies that measure how the Team Member is doing on his or her goals and in his or her position.

(b) (6), (b) (7)(C) had (b) (6), (b) (7)(C) YourTime meeting with (b) (6), (b) (7)(C) then (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) 2020. (See Exhibit D.4a.) At this point in time, the country was in the throes of the COVID-19 pandemic and UWM’s Operations Specialist team was transitioning to remote work. (b) (6), (b) (7)(C) was commended on the positive attitude (b) (6), (b) (7)(C) exhibited toward working from home. The (b) (6), (b) (7)(C) 2020 YourTime was the first and only generally positive evaluation (b) (6), (b) (7)(C) received. In (b) (6), (b) (7)(C) 2020, after being with the company for (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was already being corrected on (b) (6), (b) (7)(C) work ethic and drive. (See Exhibit D.4b.) Specifically, (b) (6), (b) (7)(C) noted that “there shouldn’t be any large gaps of time missing and that you are staying focused. Working from home should be the exact same as working in the office.” (*Id.*) (b) (6), (b) (7)(C) further directed that (b) (6), (b) (7)(C) wanted to “make sure that (b) (6), (b) (7)(C) was doing all that (b) (6), (b) (7)(C) can in the 8 hours we have a day. . . .” (*Id.*) (b) (6), (b) (7)(C) 2020 YourTime by (b) (6), (b) (7)(C) fared no better with respect to (b) (6), (b) (7)(C) work ethic, and instead directed (b) (6), (b) (7)(C) to prioritize work.

(See Exhibit D.4c.) The (b) (6), (b) (7)(C) 2020 YourTime also indicated that (b) (6), (b) (7)(C) was not pulling (b) (6), (b) (7)(C) weight, which forced (b) (6), (b) (7)(C) fellow team members to pick up (b) (6), (b) (7)(C) slack. (*Id.*)

Between June 2020 through October 2020, (b) (6), (b) (7)(C) had a new (b) (6), (b) (7)(C), (b) (6), (b) (7)(C). Like the team leader before (b) (6), (b) (7)(C) also identified opportunities for (b) (6), (b) (7)(C) to improve (b) (6), (b) (7)(C) performance and conduct. Specifically, (b) (6), (b) (7)(C) exhibited inappropriate and unprofessional behavior. (b) (6), (b) (7)(C) often noted that (b) (6), (b) (7)(C) workplace conduct needed improvement, stressing that “[p]lease know that your words matter. There is a time and place for joking but sometimes you come across as disrespectful. . . .” (See Exhibits D.4d, D.4e; see also Exhibit D.4f, noting “we have talked about this a couple times before. At the end of the day, this is a professional office and I feel like every time I make a game plan, you roll your eyes or belittle it.”) (b) (6), (b) (7)(C) also cautioned against (b) (6), (b) (7)(C) “negative mindset when things change on a whim” and asked that (b) (6), (b) (7)(C) not get discouraged when change is communicated to the team. (See Exhibit D.4d.) (b) (6), (b) (7)(C) also noted that (b) (6), (b) (7)(C) was struggling to efficiently utilize (b) (6), (b) (7)(C) time and (b) (6), (b) (7)(C) identified “gaps in time” “from taking multiple breaks in the day.” (See Exhibit D.4h.) (b) (6), (b) (7)(C) work ethic was identified again as an opportunity for improvement. Specifically, (b) (6), (b) (7)(C) took issue with (b) (6), (b) (7)(C) lack of commitment and (b) (6), (b) (7)(C) lacking work performance while working from home. (See Exhibit D.4g; see also Exhibit D.4e.)

By November 2020, (b) (6), (b) (7)(C) had a new (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) remained (b) (6), (b) (7)(C) until (b) (6), (b) (7)(C) termination on (b) (6), (b) (7)(C) 2021. (b) (6), (b) (7)(C) assessment of (b) (6), (b) (7)(C) performance and attitude was similar to assessments contained in the prior YourTimes – the only difference being that (b) (6), (b) (7)(C) work ethic and drive was consistently lagging. Indeed, every YourTime between November and May identified these competencies as opportunities for improvement:

- In the November 2020 YourTime, (b) (6), (b) (7)(C) noted: “As you know we have talked about you [sic] production before. I know it has been a little slow but you have been producing at a much lower percentage then [sic] the rest of Setup. We have talked about some ways to improve your pace. . . . If your production does not improve (no less than hitting under 15% of the floor average) by 01/01/2021 we will be separating with you.” (See Exhibit D.4i.)
- In the December 2020 YourTime, (b) (6), (b) (7)(C) noted: “. . . I want you to continue to work on your production. . . .” (See Exhibit D.4j.)
- In the January 2021 YourTime, (b) (6), (b) (7)(C) noted: “I want you to continue to work on your production. I know you are capable of doing more than you think. . . .” When commenting on drive, (b) (6), (b) (7)(C) noted: “This kind of goes hand in hand with work ethic, and I don’t want you to think it’s a bad thing. Just more focus on production. . . .” (See Exhibit D.4k.)
- In the February 2021 YourTime, (b) (6), (b) (7)(C) noted that while (b) (6), (b) (7)(C) is working hard to improve, (b) (6), (b) (7)(C) needs (b) (6), (b) (7)(C) to continue to work on production pace in order for (b) (6), (b) (7)(C) to get to where (b) (6), (b) (7)(C) needs to be goal-wise. (See Exhibit D.4l.)

- In the (b) (6), (b) (7)(C) 2021 YourTime, (b) (6), (b) (7)(C) stressed that they have talked about (b) (6), (b) (7)(C) conduct for a few weeks now: “we need to be more positive. . . .” With respect to drive, (b) (6), (b) (7)(C) emphasized, “[w]e have had 2 conversations about leaving in the middle of the day. When you leave last minute, that messes up everyone [sic] commitments on the team. . . .” (*See Exhibit D.4m.*)
- In the April 2021 YourTime, (b) (6), (b) (7)(C) directed (b) (6), (b) (7)(C) to “focus on working on your academics [i.e., trainings] and getting them done on time.” (*See Exhibit D.4n.*)

Despite the constant coaching from three separate Team Leaders over the course of a year, (b) (6), (b) (7)(C) performance and overall conduct did not improve. Rather than take ownership over (b) (6), (b) (7)(C) dismal productivity, (b) (6), (b) (7)(C) would argue that (b) (6), (b) (7)(C) goals were unrealistic and that IT and technical issues with the system while working remotely that prevented (b) (6), (b) (7)(C) from attaining these goals. In fact, on or around March 2021, (b) (6), (b) (7)(C) requested that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) attend a virtual team huddle¹ so (b) (6), (b) (7)(C) and one other member of the Setup team, (b) (6), (b) (7)(C), could lodge their complaints about VPN and system issues allegedly affecting (b) (6), (b) (7)(C) ability to meet (b) (6), (b) (7)(C) goals while also working remotely. (b) (6), (b) (7)(C) addressed (b) (6), (b) (7)(C) lagging production and acknowledged (b) (6), (b) (7)(C) complaints, but advised that the Team Huddle was not the appropriate forum to address these specific issues (b) (6), (b) (7)(C) responded by immediately logging out of the huddle early). (b) (6), (b) (7)(C) further noted that UWM offered onsite resources that (b) (6), (b) (7)(C) could avail (b) (6), (b) (7)(C) to if (b) (6), (b) (7)(C) chose to return to the office. Notably, (b) (6), (b) (7)(C) goals were based on a team average – and (b) (6), (b) (7)(C) was consistently producing significantly below that average. For example, on or around (b) (6), (b) (7)(C) 2021, (b) (6), (b) (7)(C) productivity was at approximately 14%, which fell significantly below the Setup team’s 69% average. (*See Exhibit D.10a.*) (b) (6), (b) (7)(C) was also taking too much time in between loans, which (b) (6), (b) (7)(C) cautioned was not acceptable. (*Id.*) (b) (6), (b) (7)(C) was advised that (b) (6), (b) (7)(C) would be required to return to the office if these issues persisted. (*Id.*)

Although (b) (6), (b) (7)(C) returned to the office on March 29, 2021 – which should have remedied (b) (6), (b) (7)(C) alleged IT and technical issues with the UWM system – (b) (6), (b) (7)(C) conduct and work performance continued to decline. Indeed, in the (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) employment, (b) (6), (b) (7)(C) average was 26% of the Setup team’s average UKG hours. (*See Exhibit D.4o.*) Thus, on the morning of (b) (6), (b) (7)(C) 2021, (b) (6), (b) (7)(C) requested a meeting with (b) (6), (b) (7)(C) regarding (b) (6), (b) (7)(C) deficient performance and conduct. At the conclusion of the meeting, (b) (6), (b) (7)(C) committed to doing better.

Several hours later, (b) (6), (b) (7)(C) attended a Team Huddle centered on *anti-bullying and inclusion*. During this huddle, one of (b) (6), (b) (7)(C) Setup team members stated that an unnamed (b) (6), (b) (7)(C) had previously made statements to (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) felt were (b) (6), (b) (7)(C). This particular team member did not want to identify (b) (6), (b) (7)(C) who made the statement. While this conversation was taking place, and despite the team member’s reluctance, (b) (6), (b) (7)(C) sent an instant message via Teams to the Setup team naming (b) (6), (b) (7)(C). And rather than send

¹ Every team within UMW has a daily Team Huddle with their respective team leaders. These meetings are short and intended to afford team members an opportunity to touch base with their leaders and fellow team members and discuss company-wide news and information.

words of encouragement or an apology, like the other members of (b) (6), (b) (7)(C) team, (b) (6), (b) (7)(C) riled up the Setup team, described (b) (6), (b) (7)(C) as a “serial killer,” and threatened that “people like that deserve the same fate as racists...c[all] [sic] them out on their shit and make their life a living hell.” (See Exhibit D.12b.) (b) (6), (b) (7)(C) subsequently acknowledged (b) (6), (b) (7)(C) volatile behavior. (See Exhibit D.12e.) UWM viewed this threatening statement (coupled with (b) (6), (b) (7)(C) continued poor work performance and consistent inappropriate conduct) as the culmination of continued and constant poor performance and as a result, (b) (6), (b) (7)(C) employment was terminated.

(b) (6), (b) (7)(C) did not retaliate against (b) (6), (b) (7)(C) for engaging in protected concerted activity. At no point in time did (b) (6), (b) (7)(C) complain on behalf of the Setup team and instead, (b) (6), (b) (7)(C) only complained about (b) (6), (b) (7)(C) own issues. Nor does (b) (6), (b) (7)(C) “serial killer” and “make their life a living hell” statements constitute protected concerted activity. It was not a complaint about a term or condition of employment – rather, it was a threat against a coworker. This is precisely the sort of statement that the NLRB has held is not afforded protection under the Act. See *Staviski d/b/a Chemung Valley Acoustical & Bailey, Jr., & Ervay*, 2003 NLRB LEXIS 741 (November 21, 2003) (finding that an employee did not engage in protected concerted activity when he called his coworker a “f----- a-----”); see also *JT’s Porch Saloon & Eatery, Ltd.*, No. 13-CA-46689, 2011 WL 2960964 (July 7, 2011) (no protected concerted activity where employee upset with tipping policy hoped his customers choked on glass); *Nat’l Market Share, Inc.*, 1996 NLRB LEXIS 795 (December 5, 1996) (an employee Facebook comment that he was “about a hair away from setting it off in that B---- [sic]” was not protected concerted activity, even though the employee was apparently upset over his employer’s sick leave policy);

2. *In or around March 2021, (b) (6), (b) (7)(C) threatened employees that they would be terminated if they continued to voice complaints about terms and conditions of employment.*

UWM denies this allegation. As a threshold matter, members of the Setup team were not voicing complaints about terms and conditions of employment. Nor did (b) (6), (b) (7)(C) threaten employees for engaging in same. Instead, it was (b) (6), (b) (7)(C) who constantly complained to team members and various Team Leaders about the attainability of (b) (6), (b) (7)(C) goals. (b) (6), (b) (7)(C) did this throughout (b) (6), (b) (7)(C) tenure at UWM and did so in a rude and disrespectful manner. According to (b) (6), (b) (7)(C) goals were unrealistic. Specifically, (b) (6), (b) (7)(C) complained that the system and technological issues (b) (6), (b) (7)(C) was experiencing were preventing (b) (6), (b) (7)(C) from meeting (b) (6), (b) (7)(C) goals. These complaints, however, are not concerted activity that is protected under the Act. Indeed, concerted activity is that which is “engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself.” *Meyers Industries*, 268 NLRB 493, 497 (1984). Stated differently, for (b) (6), (b) (7)(C) complaints to have constituted concerted activity, they must not have been made solely on behalf of (b) (6), (b) (7)(C) and as an excuse for (b) (6), (b) (7)(C) deficiencies, but they must be made on behalf of other employees or at least with the object of inducing or preparing for group action. *NLRB v. Talsol Corp.*, 155 F.3d 785, 796 (6th Cir. 1998). Here, there is no evidence that (b) (6), (b) (7)(C) was acting for or on behalf of others. Although (b) (6), (b) (7)(C) attempts to cloak (b) (6), (b) (7)(C) issues as team issues, the bottom line was always (b) (6), (b) (7)(C) performance and why (b) (6), (b) (7)(C) was falling below the team average. It is well settled that activity by an employee for his or her own personal benefit and not the benefit of others is not protected concerted activity and that the employee “must be actually, rather than impliedly representing the views of other employees.” *Jim Causley Pontiac v. NLRB*, 620 F.2d 122, 126n.

7 (6th Cir. 1980). Not only were (b) (6), (b) (7)(C) complaints not made on behalf of (b) (6), (b) (7)(C) team members, but often times, (b) (6), (b) (7)(C) team members expressed discomfort about (b) (6), (b) (7)(C) negative attitude and relentless complaining. For these reasons, (b) (6), (b) (7)(C) advised (b) (6), (b) (7)(C) that if (b) (6), (b) (7)(C) conduct and performance did not improve, (b) (6), (b) (7)(C) would be subject to termination.

3. *In or around (b) (6), (b) (7)(C) 2021, the Employer, by its Agent (b) (6), (b) (7)(C) issued a Coaching Opp to the CP in retaliation for (b) (6), (b) (7)(C) protected concerted activities and in order to discourage other employees from engaging in protected concerted activities.*

UWM denies that (b) (6), (b) (7)(C) issued a Coaching Opp in retaliation for (b) (6), (b) (7)(C) purported concerted activities. Instead, (b) (6), (b) (7)(C) issued the Coaching Opp as a follow up to (b) (6), (b) (7)(C) continued deficient work performance and inappropriate conduct. (**See Exhibit D.10b.**) Rather than retaliate, (b) (6), (b) (7)(C) was attempting to coach and guide (b) (6), (b) (7)(C) through the very issues that (b) (6), (b) (7)(C) had continued to exhibit over the course of (b) (6), (b) (7)(C) tenure at UWM. As (b) (6), (b) (7)(C) noted, (b) (6), (b) (7)(C) unprofessional actions and constant griping about (b) (6), (b) (7)(C) ability to attain (b) (6), (b) (7)(C) goals and technical issues (b) (6), (b) (7)(C) was having, was affecting team morale, making many feel “uncomfortable.” (*Id.*) In fact, a number of team members advised (b) (6), (b) (7)(C) that they had muted (b) (6), (b) (7)(C) messages to avoid having to read (b) (6), (b) (7)(C) constant complaints.

Moreover, as noted above, (b) (6), (b) (7)(C) complaints had to do with the alleged effect that system and technological issues were having on (b) (6), (b) (7)(C) work performance and ability to meet goals. Thus, even assuming *arguendo* that (b) (6), (b) (7)(C) was complaining about issues that other team members occasionally experienced, the complaints (b) (6), (b) (7)(C) lodged were made on (b) (6), (b) (7)(C) behalf and not in the interest of others. Indeed, as noted above, (b) (6), (b) (7)(C) goals were based on the team average – and the majority of (b) (6), (b) (7)(C) team members had no issues hitting their targets. Thus, (b) (6), (b) (7)(C) did not engage in protected concerted activity.


4. *In or around March 2021, at an Employer sanctioned event at Kennedy’s bar, the Employer, by its Agent (b) (6), (b) (7)(C) interfered with Employees engaging in Section 7 activities by telling them that they should not have raised concerns about terms and conditions of employment during the Team Huddle with (b) (6), (b) (7)(C) [sic].*

Again, UWM denies that (b) (6), (b) (7)(C) interfered with team members engaging in protected activity. The events that transpired at Kennedy’s bar are yet another instance in which (b) (6), (b) (7)(C) was airing (b) (6), (b) (7)(C) personal work issues in an inappropriate setting. (b) (6), (b) (7)(C) brought up the March 2021 team huddle that (b) (6), (b) (7)(C) had attended. In so doing, (b) (6), (b) (7)(C) confronted (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) failure to speak up on (b) (6), (b) (7)(C) behalf when (b) (6), (b) (7)(C) brought up the issue of (b) (6), (b) (7)(C) poor production figures. (b) (6), (b) (7)(C), for (b) (6), (b) (7)(C) part, explained that (b) (6), (b) (7)(C) could not disrespect (b) (6), (b) (7)(C) superior and further noted that (b) (6), (b) (7)(C) performance issues were now in (b) (6), (b) (7)(C) hands. At no point did (b) (6), (b) (7)(C) raise concerns on behalf of other employees or the Setup team. Again, it was all about (b) (6), (b) (7)(C). In fact, a number of the members of the Setup team left that event feeling uncomfortable with the way in which (b) (6), (b) (7)(C) addressed (b) (6), (b) (7)(C) issues. Like the complaints addressed above, these statements do not constitute protected concerted activity because they had nothing to do with the team as a whole.

CONCLUSION

In light of the above, (b) (6), (b) (7)(C) charges should be dismissed because they are without merit.

Very truly yours,



Zainab S. Hazimi

ZSH/zsh